

Traffic Safety Facts

Laws

January 2006

Repeat Intoxicated Driver Laws

Background

In 1998, as part of the Transportation Equity Act for the 21st Century Restoration Act (TEA-21 Restoration Act), a Federal program was established to encourage States to adopt laws that provide for enhanced sanctions for repeat offenders of impaired-driving laws (23 U.S.C. 164). Repeat offenders make up a large portion of the impaired driving problem. One-third of all driving-while-intoxicated (DWI) or driving-under-the-influence (DUI) arrests each year involve drivers convicted previously of DWI/DUI.

Key Facts

- Motor vehicle crashes are the leading cause of death for Americans from age 3 to 33.
- Alcohol was involved in 39 percent of fatal motor vehicle crashes in 2004.
- Alcohol-related crashes in the United States cost the public more than \$50 billion in 2000, and 75 percent of these costs occurred in crashes where a driver or non-occupant had a blood alcohol concentration (BAC) of .10 grams per deciliter or higher.
- About every 31 minutes, someone is killed in the United States in an alcohol-related crash.
- Impaired driving is the most frequently committed violent crime in the United States.
- About one-third of all drivers arrested of DWI have a previous DWI conviction.
- Drivers with prior DWI convictions are over-represented in fatal crashes and have a greater relative risk of involvement in a fatal crash.

How Effective Are Repeat Intoxicated Driver Laws?

Research has shown that driver-licensing sanctions have a

significant impact on impaired driving in general. Licensing sanctions imposed under State administrative license revocation systems (not the criminal justice system) have resulted in reductions in alcohol-related fatalities of between 6 and 9 percent. According to study by the National Highway Traffic Safety Administration (NHTSA), Illinois, New Mexico, Maine, North Carolina, Colorado, and Utah experienced significant reductions in alcohol-related fatal crashes following enactment of administrative license revocation procedures. The studies support the notion that licensing sanctions deter repeat DWI offenders from driving impaired. Although many repeat intoxicated drivers continue to drive without a license after their license has been revoked, studies have shown that those who drive tend to drive less frequently and more carefully. For further information about licensing sanctions, see NHTSA's *Traffic Safety Facts-Administrative License Revocation*.

Additional sanctions, including a variety of vehicle sanction programs, have been applied successfully to deter repeat DWI offenses. California's vehicle impoundment program resulted in substantially fewer subsequent offenses, convictions, and

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crashes for repeat offenders involved with the program (which included non-DWI offenses) compared with another control group of repeat offenders. A study of ignition interlock devices used in Maryland found that participation in an ignition interlock program decreased the risk of DWI recidivism by 65 percent. These programs are successful because they prevent many repeat DWI offenders from driving by either separating them from their vehicles or requiring them to be unimpaired when they drive. For more information about vehicle sanctions, see NHTSA's *Traffic Safety Facts - Vehicle and License Plate Sanctions*.

Programs that focus on an individual's alcohol-related behavior have also been successful. Milwaukee's Intensive Supervision Probation program, which includes monitoring of behavior, has cut recidivism by nearly 50 percent (from 11 percent to 6 percent). A study of a financially self-sufficient DWI facility in Prince George's County, Maryland, where residents pay for their participation in the program, showed that the recidivism rate during a five-year period was 8 percent, compared with 35 percent for other programs.

A "DWI Court," based on the Drug Court model, is being evaluated in Maricopa County (Phoenix), Arizona. The evaluation examines the assignment of repeat offenders, after three months of incarceration, to either a special DWI Court or traditional probation services. The DWI Court is a special form of intensive supervision that involves both the judge and probation officers, and

that requires ongoing sobriety, confirmed through frequent alcohol testing and close supervision of offenders. Completion of this study, jointly funded with the Department of Justice, is expected in 2006.

Section 164

To comply with Section 164 of 23 U.S.C., States must have certain repeat intoxicated driver laws in place. States without a conforming law are subject to a transfer of Federal aid highway construction funds. Transferred funds may be used for alcohol-impaired driving countermeasures, enforcement of impaired-driving laws or the State's hazard elimination program, under Section 152.

To avoid the transfer of funds, a State must enact and enforce laws regarding second and subsequent convictions for driving while intoxicated (DWI) or driving under the influence of alcohol (DUI) which must at a minimum:

- require a one-year driver's license suspension;
- require that all motor vehicles of a repeat intoxicated driver be impounded or immobilized during the one-year license suspension period or require the installation of an ignition interlock system on all of the driver's motor vehicles at the conclusion of the license suspension;
- require the assessment of a repeat intoxicated driver's degree of alcohol abuse and referral to treatment as appropriate; and
- require a mandatory minimum sentence for repeat intoxicated drivers:

- ▲ of not less than 5 days of imprisonment or 30 days of community service for a second offense; and
- ▲ of not less than 10 days of imprisonment or 60 days of community service for a third or subsequent offense.

Under the Section 164 program, a repeat intoxicated driver is defined as a person convicted of driving while intoxicated or driving under the influence of alcohol more than once during any five-year period. Thus, States must maintain records on DWI convictions for at least five years.

The transferred amount for States not in compliance is 1.5 percent of certain State Federal aid highway construction funds apportioned for fiscal years 2001 and 2002 and 3 percent for fiscal year 2003 and later.

Which States Have Complied with the Federal Repeat Intoxicated Offender Requirements of Section 164?

As of January 2006, 39 States and the District of Columbia were in compliance with the requirements of Section 164: Alabama, Arizona, Arkansas, Colorado, Connecticut, Delaware, Florida, Georgia, Hawaii, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Maine, Maryland, Massachusetts, Michigan, Mississippi, Missouri, Montana, Nebraska, Nevada, New Hampshire, New Jersey, New York, North Carolina, North Dakota, Oklahoma, Pennsylvania, South Carolina, Tennessee, Texas, Utah, Virginia, Washington, West Virginia, and Wisconsin.

References

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Beck, Kenneth H., et al. *Effects of Alcohol Ignition Interlock License*

Restrictions on Multiple Alcohol Offenses: A Randomized Trial in Maryland. American Journal of Public Health, Vol. 89, No.11, 1696-1700 (November 1999).

Traffic Safety Facts - Administrative License Revocation. National Highway Traffic Safety Administration, Washington, DC, January 2006.

Traffic Safety Facts - Vehicle and License Plate Sanctions. National Highway Traffic Safety Administration, Washington, DC, January 2006.



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Reports and additional information are available from your State Highway Safety Office; the NHTSA Regional Office serving your State; NHTSA Headquarters, Office of Impaired Driving and Occupant Protection, ATTN: NTS-111, 400 Seventh Street, SW., Washington, DC 20590; 202-366-2683; or NHTSA's Web site at www.nhtsa.gov.